

FIRST REGULAR SESSION

SENATE BILL NO. 324

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Read 1st time January 18, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1523S.011

AN ACT

To repeal section 135.327, RSMo, and to enact in lieu thereof one new section relating to the special needs adoption tax credit program.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.327, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 135.327, to read as follows:

135.327. 1. As used in this section, the following terms shall mean:

2 (1) "CASA", an entity which receives funding from the court-appointed
3 special advocate fund established under section 476.777, RSMo;

4 (2) "Child advocacy centers", the regional child assessment centers listed
5 in subsection 2 of section 210.001, RSMo;

6 (3) "Contribution", amount of donation to qualified agency;

7 (4) "Crisis care **center**", temporary care for children whose age ranges
8 from birth through seventeen years of age whose parents or guardian are
9 experiencing an unexpected and unstable or serious condition that requires
10 immediate action resulting in short term care, usually three to five continuous,
11 uninterrupted days, for children who may be at risk for child abuse, neglect, or
12 in an emergency situation;

13 (5) "Department", the department of revenue;

14 (6) "Director", the director of the department of revenue;

15 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care
16 center;

17 (8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes
18 withheld under sections 143.191 to 143.265, RSMo.

19 2. Any person residing in this state who legally adopts a special needs

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 child on or after January 1, 1988, and before January 1, 2000, shall be eligible to
21 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
22 expenses for each child adopted that may be applied to taxes due under chapter
23 143, RSMo. Any business entity providing funds to an employee to enable that
24 employee to legally adopt a special needs child shall be eligible to receive a tax
25 credit of up to ten thousand dollars for nonrecurring adoption expenses for each
26 child adopted that may be applied to taxes due under such business entity's state
27 tax liability, except that only one ten thousand dollar credit is available for each
28 special needs child that is adopted.

29 3. Any person residing in this state who proceeds in good faith with the
30 adoption of a special needs child on or after January 1, 2000, shall be eligible to
31 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
32 expenses for each child that may be applied to taxes due under chapter 143,
33 RSMo; provided, however, that beginning on or after July 1, 2004, two million
34 dollars of the tax credits allowed shall be allocated for the adoption of special
35 needs children who are residents or wards of residents of this state at the time
36 the adoption is initiated, **and provided further that beginning on or after**
37 **January 1, 2008, three million dollars of the tax credits allowed shall**
38 **be allocated for the adoption of special needs children who are not**
39 **residents or are wards of nonresidents of this state at the time the**
40 **adoption is initiated.** Any business entity providing funds to an employee to
41 enable that employee to proceed in good faith with the adoption of a special needs
42 child shall be eligible to receive a tax credit of up to ten thousand dollars for
43 nonrecurring adoption expenses for each child that may be applied to taxes due
44 under such business entity's state tax liability, except that only one ten thousand
45 dollar credit is available for each special needs child that is adopted.

46 4. Individuals and business entities may claim a tax credit for their total
47 nonrecurring adoption expenses in each year that the expenses are incurred. A
48 claim for fifty percent of the credit shall be allowed when the child is placed in
49 the home. A claim for the remaining fifty percent shall be allowed when the
50 adoption is final. The total of these tax credits shall not exceed the maximum
51 limit of ten thousand dollars per child. The cumulative amount of tax credits
52 which may be claimed by taxpayers claiming the credit for nonrecurring adoption
53 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million
54 dollars. The cumulative amount of tax credits that may be claimed by taxpayers
55 claiming the credit for nonrecurring adoption expenses shall not be [less] **more**

56 than [four] **five** million dollars but may be increased by appropriation in any
57 [one] fiscal year beginning on or after July 1, 2004; provided, however, that by
58 December thirty-first following each July, if less than two million dollars in
59 credits have been issued for adoption of special needs children who are not
60 residents or wards of residents of this state at the time the adoption is initiated,
61 the remaining amount of the cap shall be available for the adoption of special
62 needs children who are residents or wards of residents of this state at the time
63 the adoption is initiated. For all fiscal years beginning on or after July 1, 2006,
64 applications to claim the adoption tax credit for special needs children who are
65 residents or wards of residents of this state at the time the adoption is initiated
66 shall be filed between July first and April fifteenth of each fiscal year. For all
67 fiscal years beginning on or after July 1, 2006, applications to claim the adoption
68 tax credit for special needs children who are not residents or wards of residents
69 of this state at the time the adoption is initiated shall be filed between July first
70 and December thirty-first of each fiscal year.

71 5. Notwithstanding any provision of law to the contrary, any individual
72 or business entity may assign, transfer or sell tax credits allowed in this
73 section. Any sale of tax credits claimed pursuant to this section shall be at a
74 discount rate of seventy-five percent or greater of the amount sold.

75 6. The director of revenue shall establish a procedure by which, for each
76 fiscal year, the cumulative amount of tax credits authorized in this section is
77 equally apportioned among all taxpayers within the two categories specified in
78 subsection 3 of this section claiming the credit in that fiscal year. To the
79 maximum extent possible, the director of revenue shall establish the procedure
80 described in this subsection in such a manner as to ensure that taxpayers within
81 each category can claim all the tax credits possible up to the cumulative amount
82 of tax credits available for the fiscal year.

83 7. For all tax years beginning on or after January 1, 2006, a tax credit
84 may be claimed in an amount equal to up to fifty percent of a verified
85 contribution to a qualified agency and shall be named the children in crisis tax
86 credit. The minimum amount of any tax credit issued shall not be less than fifty
87 dollars and shall be applied to taxes due under chapter 143, RSMo, excluding
88 sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to
89 the taxpayer by the agency receiving the contribution. Such contribution
90 verification shall include the taxpayer's name, Social Security number, amount
91 of tax credit, amount of contribution, the name and address of the agency

92 receiving the credit, and the date the contribution was made. The tax credit
93 provided under this subsection shall be initially filed [in] for the year in which
94 the verified contribution is made.

95 8. The cumulative amount of the tax credits redeemed shall not exceed the
96 unclaimed portion of the resident adoption category allocation as described in this
97 section. The director of revenue shall determine the unclaimed portion
98 available. The amount available shall be equally divided among the [agencies
99 meeting the definition of qualified agency] **three qualified agencies: CASA,**
100 **child advocacy centers, or crisis care centers** to be used towards tax credits
101 issued. In the event tax credits claimed under one agency do not total the
102 allocated amount for that agency, the unused portion for that agency will be made
103 available to the remaining agencies [as needed] **equally**. In the event the total
104 amount of tax credits claimed **for any one agency** exceeds the amount available
105 **for that agency**, the amount redeemed shall and will be apportioned equally to
106 all eligible taxpayers claiming the credit **under that agency**. After all children
107 in crisis tax credits have been claimed, any remaining unclaimed portion of the
108 reserved allocation for adoptions of special needs children who are residents or
109 wards of residents of this state shall then be made available for adoption tax
110 credit claims of special needs children who are not residents or wards of residents
111 of this state at the time the adoption is initiated.

112 9. Prior to December thirty-first of each year, the entities listed under the
113 definition of qualified agency shall apply to the department of social services in
114 order to verify their qualified agency status. Upon a determination that the
115 agency is eligible to be a qualified agency, the department of social services shall
116 provide a letter of eligibility to such agency. No later than February first of each
117 year, the department of social services shall provide a list of qualified agencies
118 to the department of revenue. All tax credit applications to claim the children in
119 crisis tax credit shall be filed between July first and April fifteenth of each fiscal
120 year. A taxpayer shall apply for the children in crisis tax credit by attaching a
121 copy of the contribution verification provided by a qualified agency to such
122 taxpayer's income tax return.

123 10. The tax credits provided under this section shall be subject to the
124 provisions of section 135.333.

125 11. (1) In the event a credit denial, due to lack of available funds, causes
126 a balance-due notice to be generated by the department of revenue, or any other
127 redeeming agency, the taxpayer will not be held liable for any penalty or interest,

128 provided the balance is paid, or approved payment arrangements have been
129 made, within sixty days from the notice of denial.

130 (2) In the event the balance is not paid within sixty days from the notice
131 of denial, the remaining balance shall be due and payable under the provisions
132 of chapter 143, RSMo.

133 12. The director shall calculate the level of appropriation necessary to
134 issue all tax credits for nonresident special needs adoptions applied for under this
135 section and provide such calculation to the speaker of the house of
136 representatives, the president pro tempore of the senate, and the director of the
137 division of budget and planning in the office of administration by January
138 thirty-first of each year.

139 13. The department may promulgate such rules or regulations as are
140 necessary to administer the provisions of this section. Any rule or portion of a
141 rule, as that term is defined in section 536.010, RSMo, that is created under the
142 authority delegated in this section shall become effective only if it complies with
143 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
144 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
145 and if any of the powers vested with the general assembly pursuant to chapter
146 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
147 rule are subsequently held unconstitutional, then the grant of rulemaking
148 authority and any rule proposed or adopted after August 28, 2006, shall be
149 invalid and void.

150 14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

151 (1) The provisions of the new program authorized under subsections 7 to
152 12 of this section shall automatically sunset six years after August 28, 2006,
153 unless reauthorized by an act of the general assembly; and

154 (2) If such program is reauthorized, the program authorized under this
155 section shall automatically sunset twelve years after the effective date of the
156 reauthorization of this section; and

157 (3) This section shall terminate on September first of the calendar year
158 immediately following the calendar year in which the program authorized under
159 this section is sunset.

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